

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

CLIFTON LYTLE, JR.,

Defendant.

CASE NO. 8:07CR262

MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation (Filing No. 22) issued by Magistrate Judge Thomas D. Thalken recommending denial of the Defendant's motion to suppress (Filing No. 11). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant, Clifton Lytle, Jr., seeks an order suppressing evidence obtained as a result of the April 8, 2007, stop of a vehicle driven by the Defendant. Lytle argues that probable cause did not support his arrest for reckless driving.

Judge Thalken noted the following with respect to Lytle's driving: his speed; Lytle's failure to stop once officers' lights were activated; Lytle stopped only after officers used a spotlight and siren; Lytle stopped in a traffic lane as opposed to the shoulder of the road; signs of alcohol impairment were present, although Lytle was still within the legal limit; and Lytle's blood alcohol content measured .055, 70% of the driving under the influence limit of .08. Judge Thalken also noted that reckless driving is an offense for which one may be arrested. Judge Thalken concluded: probable cause existed to arrest Lytle for reckless driving on April 8, 2007; and the search of the vehicle driven by Lytle occurred after a valid traffic stop and reasonable detention.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the parties' briefs (Filing Nos. 12, 14) and the transcript (Filing No. 20). The Court has also viewed the evidence. (Filing No. 17) Because Judge Thalken fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 22) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 11) is denied.

DATED this 26th day of November, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge